

**SUBSTITUTE FOR
SENATE BILL NO. 754**

(As amended, October 11, 2005)

<<A bill to amend 1991 PA 179, entitled
"Michigan telecommunications act,"
by amending sections 102, 103, 202, 203, 203a, 204, 205, 210, 211,
213, 214, 303, 304, 304a, 305, 306, 309, 309a, 310, 315, 316a, 317,
321, 355, 359, 360, 502, 505, and 604 (MCL 484.2102, 484.2103, 484.2202,
484.2203, 484.2203a, 484.2204, 484.2205, 484.2210, 484.2211,
484.2213, 484.2214, 484.2303, 484.2304, 484.2304a, 484.2305,
484.2306, 484.2309, 484.2309a, 484.2310, 484.2315, 484.2316a, 484.2317,
484.2321, 484.2355, 484.2359, 484.2360, 484.2505, and 484.2604),
section 102 as amended by 1998 PA 41, sections 103, 203, 203a,
303, 304, 310, 502, and 604 as amended and sections 214 and 316a
as added by 2000 PA 295, sections 202, 205, 210, 305, 306, and 309a
as amended and sections 304a, 317, 321, 355, 359, and 360 as added
by 1995 PA 216, section 213 as amended by 2004 PA 591, and section
505 as added by 1998 PA 260, and by adding sections 203b, 204a, 215,

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215a, 304c, 304d, 305a, 305b, 305c, 305d, 305e, 353a, 402a, and 502a;
and to repeal acts and parts of acts.>>

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 102. As used in this act:

2 (a) "Access service" means access to a local exchange network
3 for the purpose of enabling a provider to originate or terminate
4 telecommunication services within the local exchange. Except for
5 end-user common line services, access service does not include
6 access service to a person who is not a provider.

7 (b) "Basic local exchange service" or "local exchange service"
8 means the provision of an access line and usage within a local
9 calling area for the transmission of high-quality 2-way interactive
10 switched voice or data communication.

11 (c) "Cable service" means 1-way transmission to subscribers of
12 video programming or other programming services and subscriber
13 interaction for the selection of video programming or other
14 programming services.

15 (d) "Commission" means the Michigan public service commission.

16 (e) "Contested case" or "case" means a proceeding as defined
17 in section 3 of the administrative procedures act of 1969, 1969 PA
18 306, MCL 24.203.

19 (f) "Educational institution" means a public educational
20 institution or a private non-profit educational institution
21 approved by the department of education to provide a program of
22 primary, secondary, or higher education, a public library, or a
23 nonprofit association or consortium whose primary purpose is
24 education. A nonprofit association or consortium under this

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subdivision shall consist of 2 or more of the following:

(i) Public educational institutions.

(ii) Nonprofit educational institutions approved by the department of education.

(iii) The state board of education.

(iv) Telecommunication providers.

(v) A nonprofit association of educational institutions or consortium of educational institutions.

(g) "Energy management services" means a service of a public utility providing electric power, heat, or light for energy use management, energy use control, energy use information, and energy use communication.

(H) "ESSENTIAL BASIC LOCAL EXCHANGE SERVICE" MEANS BASIC LOCAL EXCHANGE SERVICE THAT CONSISTS OF 1 PRIMARY ACCESS LINE TO A RESIDENTIAL <<OR BUSINESS>> CUSTOMER FOR VOICE COMMUNICATIONS AND A MINIMUM ALLOWANCE OF LOCAL USAGE ON THAT LINE OF AT LEAST 200 <<OUTGOING>> CALLS PER MONTH <<WITH ADDITIONAL LOCAL CALLS AVAILABLE AT A RATE SET IN ACCORDANCE WITH SECTION 304>>.

(I) —(h)— "Exchange" means 1 or more contiguous central offices and all associated facilities within a geographical area in which BASIC local exchange ~~telecommunication services are~~ SERVICE IS offered by a provider.

(J) —(i)— "Information services" or "enhanced services" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information, including energy management services, that is conveyed by telecommunications. Information services or enhanced services do not include the use of such capability for the

1 management, control, or operation of a telecommunications system or
2 the management of a telecommunications service.

3 (K) ~~—(j)—~~ "Interconnection" means the technical arrangements
4 and other elements necessary to permit the connection between the
5 switched networks of 2 or more providers to enable a
6 telecommunication service originating on the network of 1 provider
7 to terminate on the network of another provider.

8 ~~———(k) "Inter LATA prohibition" means the prohibitions on the~~
9 ~~offering of inter exchange or inter LATA service contained in the~~
10 ~~modification of final judgment entered pursuant to a consent decree~~
11 ~~in United States v American Telephone and Telegraph Co., 552 F.~~
12 ~~Supp. 131 (D.D.C. 1982), and in the consent decree approved in~~
13 ~~United States v GTE Corp., 603 F. Supp. 730 (D.D.C. 1984).~~

14 (l) "LATA" means the local access and transport area as
15 defined in United States v American Telephone and Telegraph Co.,
16 569 F. Supp. 990 (D.D.C. 1983).

17 (m) "License" means a license issued pursuant to this act.

18 (n) "Line" or "access line" means the medium over which a
19 telecommunication user connects into the local exchange.

20 (o) "Local calling area" means a geographic area encompassing
21 1 or more local communities as described in maps, tariffs, or rate
22 schedules filed with and approved by the commission.

23 (p) "Local directory assistance" means the provision by
24 telephone of a listed telephone number within the caller's area
25 code.

26 (q) "Local exchange rate" means the monthly and usage rate,
27 including all necessary and attendant charges, imposed for basic

1 local exchange service to customers.

2 (r) "Loop" means the transmission facility between the
3 network interface on a subscriber's premises and the main
4 distribution frame in the servicing central office.

5 (s) "Operator service" means a telecommunication service that
6 includes automatic or live assistance to a person to arrange for
7 completion and billing of a telephone call originating within this
8 state that is specified by the caller through a method other than 1
9 of the following:

10 (i) Automatic completion with billing to the telephone from
11 which the call originated.

12 (ii) Completion through an access code or a proprietary account
13 number used by the person, with billing to an account previously
14 established with the provider by the person.

15 (iii) Completion in association with directory assistance
16 services.

17 (t) "Operator service provider" or "OSP" means a provider of
18 operator service.

19 (u) "Payphone service" means a telephone call provided from a
20 public, semipublic, or individually owned and operated telephone
21 that is available to the public and is accessed by the depositing
22 of coin or currency or by other means of payment at the time the
23 call is made.

24 (v) "Person" means an individual, corporation, partnership,
25 association, governmental entity, or any other legal entity.

26 (w) "Person with disabilities" means a person who has 1 or
27 more of the following physical characteristics:

1 (i) Blindness.

2 (ii) Inability to ambulate more than 200 feet without having to
3 stop and rest during any time of the year.

4 (iii) Loss of use of 1 or both legs or feet.

5 (iv) Inability to ambulate without the prolonged use of a
6 wheelchair, walker, crutches, braces, or other device required to
7 aid mobility.

8 (v) A lung disease from which the person's expiratory volume
9 for 1 second, when measured by spirometry, is less than 1 liter, or
10 from which the person's arterial oxygen tension is less than 60
11 mm/hg of room air at rest.

12 (vi) A cardiovascular disease from which the person measures
13 between 3 and 4 on the New York heart classification scale, or from
14 which a marked limitation of physical activity causes fatigue,
15 palpitation, dyspnea, or anginal pain.

16 (vii) Other diagnosed disease or disorder including, but not
17 limited to, severe arthritis or a neurological or orthopedic
18 impairment that creates a severe mobility limitation.

19 (x) "Port" except for the loop, means the entirety of local
20 exchange, including dial tone, a telephone number, switching
21 software, local calling, and access to directory assistance, a
22 white pages listing, operator services, and interexchange and
23 intra-LATA toll carriers.

24 (y) "Reasonable rate" or "just and reasonable rate" means a
25 rate that is not inadequate, excessive, or unreasonably
26 discriminatory. A rate is inadequate if it is less than the total
27 service long run incremental cost of providing the service.

1 (z) "Residential customer" means a person to whom
2 telecommunication services are furnished predominantly for personal
3 or domestic purposes at the person's dwelling.

4 (aa) "Special access" means the provision of access service,
5 other than switched access service, to a local exchange network for
6 the purpose of enabling a provider to originate or terminate
7 telecommunication service within the exchange, including the use of
8 local private lines.

9 (bb) "State institution of higher education" means an
10 institution of higher education described in sections 4, 5, and 6
11 of article VIII of the state constitution of 1963.

12 (cc) "Telecommunication provider" or "provider" means a person
13 or an affiliate of the person each of which for compensation
14 provides 1 or more telecommunication services.

15 (dd) "Telecommunication services" or "services" includes
16 regulated and unregulated services offered to customers for the
17 transmission of 2-way interactive communication and associated
18 usage. A telecommunication service is not a public utility service.

19 (ee) "Toll service" means the transmission of 2-way
20 interactive switched communication between local calling areas.
21 Toll service does not include individually negotiated contracts for
22 similar telecommunication services or wide area telecommunications
23 service.

24 (ff) "Total service long run incremental cost" means, given
25 current service demand, including associated costs of every
26 component necessary to provide the service, 1 of the following:

27 (i) The total forward-looking cost of a telecommunication

1 service, relevant group of services, or basic network component,
2 using current least cost technology that would be required if the
3 provider had never offered the service.

4 (ii) The total cost that the provider would incur if the
5 provider were to initially offer the service, group of services, or
6 basic network component.

7 (gg) "Wide area telecommunications service" or "WATS" means
8 the transmission of 2-way interactive switched communication over a
9 dedicated access line.

10 Sec. 103. (1) Except as otherwise provided in this act, this
11 act shall not be construed to prevent any person from providing
12 telecommunication services in competition with another
13 telecommunication provider.

14 (2) The commission shall submit an annual report describing
15 the status of competition in telecommunication services in this
16 state, including, but not limited to, the toll and local exchange
17 service markets in this state. The report required under this
18 section shall be submitted to the governor and the house and senate
19 standing committees with oversight of telecommunication issues.

20 (3) THE REPORT REQUIRED UNDER THIS SECTION SHALL INCLUDE, BUT
21 IS NOT LIMITED TO, ALL OF THE FOLLOWING:

22 (A) THE STATUS OF COMPETITION FROM ALL MODES OF COMPETITIVE
23 TELECOMMUNICATION SERVICES, INCLUDING, BUT NOT LIMITED TO,
24 WIRELINE, WIRELESS, AND VOICE OVER INTERNET PROTOCOL.

25 (B) ACTIONS TAKEN BY THE COMMISSION TO IMPLEMENT MEASURES
26 NECESSARY TO PROTECT CONSUMERS FROM UNFAIR OR DECEPTIVE BUSINESS
27 PRACTICES BY TELECOMMUNICATION PROVIDERS.

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(C) INFORMATION REGARDING CUSTOMER EDUCATION ACTIVITIES
CONDUCTED BY THE COMMISSION TO INFORM CONSUMERS OF ALL RELEVANT
INFORMATION REGARDING THE PURCHASE OF TELECOMMUNICATION SERVICES.

(D) RECOMMENDATIONS FOR LEGISLATION, IF ANY.
<<(4) A PROVIDER SHALL SUBMIT TO THE COMMISSION ALL INFORMATION
NECESSARY FOR THE PREPARATION OF THE ANNUAL REPORT UNDER THIS SECTION.>>

Sec. 202. (1) In addition to the other powers and duties
prescribed by this act, the commission shall do all of the
following:

(a) Establish by order the manner and form in which
telecommunication providers of regulated services within the state
keep accounts, books of accounts, and records in order to determine
the total service long run incremental costs and imputation
requirements of this act of providing a service. The commission
requirements under this subdivision shall be consistent with any
regulations covering the same subject matter made by the federal
communications commission.

(b) Require by order that a provider of a regulated service ~~—~~
~~including access service,~~ make available for public inspection and
file with the commission a ~~—schedule—~~ **TARIFF** of the provider's
rates, services, and conditions of ~~—service, including access~~
~~service provided by contract—~~ **REGULATED SERVICES. THE TARIFFS SHALL**
BE EFFECTIVE UPON 1 DAY'S NOTICE OF SUBMISSION TO THE COMMISSION.

(c) Promulgate rules under section 213 ~~—and issue orders to~~
~~establish and enforce quality standards for providing~~
~~telecommunication services in this state.—~~ **TO ESTABLISH AND ENFORCE**
QUALITY STANDARDS FOR ALL OF THE FOLLOWING:

(i) THE PROVISION OF BASIC LOCAL EXCHANGE SERVICE <<TO>> END USERS.

(ii) THE PROVISION OF UNBUNDLED NETWORK ELEMENTS AND LOCAL

1 INTERCONNECTION SERVICES TO PROVIDERS WHICH ARE USED IN THE
2 PROVISION OF BASIC LOCAL EXCHANGE SERVICE.

3 (iii) THE TIMELY TRANSFER OF AN END USER FROM 1 PROVIDER OF
4 BASIC LOCAL EXCHANGE SERVICE TO ANOTHER PROVIDER.

5 (iv) PROVIDERS OF BASIC LOCAL EXCHANGE SERVICE THAT CEASE TO
6 PROVIDE THE SERVICE TO ANY SEGMENT OF END USERS OR GEOGRAPHIC AREA,
7 GO OUT OF BUSINESS, OR WITHDRAW FROM THE STATE.

<<(v) PROCEDURES AND METHODS TO ENSURE ACCURATE, TIMELY, AND
TRUTHFUL BILLING PRACTICES.>>

8 (d) Preserve the provision of high quality basic local
9 exchange service.

<<(E) CREATE A TASK FORCE TO STUDY THE CREATION OF A COORDINATED
MICHIGAN TELEPHONE ASSISTANCE PROGRAM. THE PROGRAM SHALL PROVIDE FOR LOW
INCOME CUSTOMERS TO RECEIVE ASSISTANCE WITH THEIR TELECOMMUNICATION
SERVICES, INCLUDING, BUT NOT LIMITED TO LIFELINE, LINK-UP, AND COMMUNITY
VOICE MAIL. THE TASK FORCE SHALL ISSUE A REPORT TO THE LEGISLATURE AND
GOVERNOR ON OR BEFORE DECEMBER 31, 2006 CONTAINING ITS FINDINGS AND
RECOMMENDATIONS. THE TASK FORCE SHALL CONSIST OF THE FOLLOWING MEMBERS:

(i) THE CHAIRPERSON OF THE COMMISSION.

(ii) ONE REPRESENTATIVE FROM EACH BASIC LOCAL EXCHANGE PROVIDER WITH
250,000 OR MORE ACCESS LINES.

(iii) TWO REPRESENTATIVES FROM PROVIDERS WHO, TOGETHER WITH
AFFILIATED PROVIDERS, PROVIDE BASIC LOCAL EXCHANGE OR TOLL SERVICE TO
LESS THAN 250,000 END USERS IN THIS STATE.

(iv) TWO REPRESENTATIVES OF CONSUMER GROUPS PRIMARILY INTERESTED IN
MATTERS AFFECTING LOW INCOME CUSTOMERS.

(v) ONE REPRESENTATIVE OF THE PROVIDER OF COMMUNITY VOICE MAIL IN
MICHIGAN.>>

10 ~~----- (e) Create a task force to study changes occurring in the~~
11 ~~federal universal service fund and the need for the establishment~~
12 ~~of a state universal service fund to promote and maintain basic~~
13 ~~local exchange service in high cost rural areas at affordable~~
14 ~~rates. The task force shall issue a report to the legislature and~~
15 ~~governor on or before December 31, 1996 containing its findings and~~
16 ~~recommendations. The task force shall consist of all of the~~
17 ~~following members:~~

18 ~~----- (i) The chairperson of the commission.~~

19 ~~----- (ii) One representative from each basic local exchange provider~~
20 ~~with 250,000 or more access lines.~~

- 21 ~~—— (iii) Four representatives from providers who, together with~~
22 ~~affiliated providers, provide basic local exchange or toll service~~
23 ~~to less than 250,000 end users in this state.~~
- 24 ~~—— (iv) Two representatives of other providers of regulated~~
25 ~~services.~~
- 26 ~~—— (v) One representative of the general public.~~
- 27 ~~—— (f) On or before January 1, 1997, the commission shall study~~

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~~and report to the legislature and governor on the following matters that have impact on the basic local exchange calling activities of all residential customers in the state:~~

~~—— (i) The percentage of intra LATA calls and minutes of usage which are charged as basic local exchange calls.~~

~~—— (ii) The average size and range of sizes of basic local exchange calling areas.~~

~~—— (iii) The ability of customers to contact emergency services, school districts, and county, municipal, and local units of government without a toll call.~~

~~—— (iv) Whether there are significant differences in basic local exchange calling patterns between urban, suburban, and rural areas.~~

~~—— (v) The impact on basic local exchange rates which would occur if basic local exchange calling areas are altered.~~

~~—— (vi) The impact when basic local exchange calling areas overlap LATA boundaries.~~

~~—— (vii) The impact on basic local exchange rates which would occur if basic local exchange calling areas are expanded within LATA boundaries.~~

~~—— (g) On or before January 1, 1997, conduct a study of internet access provider locations to determine which exchanges can reach the nearest location only by making a toll call. The commission shall then gather input from internet access providers, local exchange providers, and other interested parties and make a recommendation to the legislature as to the steps needed to allow all local exchange customers to access an internet provider by making a local call.~~

<<(E) ON OR BEFORE JULY 1, 2006 AND EVERY 6 MONTHS THEREAFTER, THE COMMISSION SHALL REPORT TO THE LEGISLATURE AND GOVERNOR ON THE CURRENT STATUS OF COMPETITION IN TELECOMMUNICATION SERVICES WITHIN THIS STATE. THE COMMISSION SHALL ESTABLISH BENCHMARK CRITERIA TO ALLOW FOR THE ASSESSMENT OF PROGRESS IN THE DEVELOPMENT OF COMPETITION IN TELECOMMUNICATION SERVICES.>>

1 (2) RULES PROMULGATED UNDER SUBSECTION (1) (C) SHALL INCLUDE
2 REMEDIES FOR THE ENFORCEMENT OF THE RULES THAT ARE CONSISTENT WITH
3 SUBSTANTIVE AND PROCEDURAL REQUIREMENTS OF THIS ACT AND APPLICABLE
4 FEDERAL LAW. RULES PROMULGATED UNDER SUBSECTION (1) (C) (ii) SHALL NOT
5 APPLY TO THE PROVISION OF UNBUNDLED NETWORK ELEMENTS AND LOCAL
6 INTERCONNECTION SERVICES SUBJECT TO QUALITY STANDARDS IN AN
7 INTERCONNECTION AGREEMENT APPROVED BY THE COMMISSION. IN
8 PROMULGATING ANY RULES UNDER SUBSECTION (1) (C), THE COMMISSION
9 SHALL CONSIDER TO WHAT EXTENT CURRENT MARKET CONDITIONS ARE
10 SUFFICIENT TO PROVIDE ADEQUATE SERVICE QUALITY TO BASIC LOCAL
11 EXCHANGE SERVICE END USERS. ANY SERVICE QUALITY RULES PROMULGATED
12 BY THE COMMISSION SHALL EXPIRE WITHIN 3 YEARS OF THE EFFECTIVE DATE
13 OF THE RULES. THE COMMISSION MAY, PRIOR TO THE EXPIRATION OF THE
14 RULES, PROMULGATE NEW RULES UNDER SUBSECTION (1) (C) .

15 (3) THE COMMISSION SHALL PERMIT THE ELECTRONIC FILING OF ANY
16 PLEADINGS, TARIFFS, OR ANY OTHER DOCUMENT REQUIRED OR ALLOWED TO BE
17 FILED WITH THE COMMISSION UNDER THIS ACT.

18 Sec. 203. (1) Upon receipt of an application or complaint filed
19 under this act, or on its own motion, the commission may conduct an
20 investigation, hold hearings, and issue its findings and order under
21 the contested hearings provisions of the administrative procedures act
22 of 1969, 1969 PA 306, MCL 24.201 to 24.328.

23 (2) If a complaint filed under this section alleges facts that
24 warrant emergency relief, the complainant may request an emergency
25 relief order. On the date of filing, the complaint and request for
26 emergency relief shall be hand-delivered to the respondent at its
27 principal place of business in Michigan. The commission shall allow 5

1 business days for a filing in response to the request for emergency
2 relief. The commission shall review the complaint, the request for
3 emergency relief, the response, and all supporting materials and
4 determine whether to deny the request for emergency relief or to
5 conduct an initial evidentiary hearing. The initial evidentiary
6 hearing shall be conducted within 5 business days from the date of the
7 notice of hearing and the commission shall issue an order granting or
8 denying the request for emergency relief. An order for emergency
9 relief may require a party to act or refrain from action to protect
10 competition. Any action required by an order for emergency relief
11 shall be technically feasible and economically reasonable and the
12 respondent shall be given a reasonable period of time to comply with
13 the order. At the hearing for emergency relief, the respondent has the
14 burden of showing that the order is not technically feasible and not
15 economically reasonable. If the commission finds that extraordinary
16 circumstances exist that warrant expedited review before the
17 commission's issuance of a final order, it shall set a schedule
18 providing for the issuance of a partial final order as to all or part
19 of the issues for which emergency relief was granted within 90 days of
20 the issuance of the emergency relief order.

21 (3) An order for emergency relief may be granted under subsection
22 (2) if the commission finds all of the following:

23 (a) That the party has demonstrated exigent circumstances that
24 warrant emergency relief.

25 (b) That the party seeking relief will likely succeed on the
26 merits.

27 (c) That the party will suffer irreparable harm in its ability to

1 serve customers if emergency relief is not granted.

2 (d) That the order is not adverse to the public interest.

3 (4) The commission may require the complainant to post a bond in
4 an amount sufficient to make whole the respondent in the event that
5 the order for emergency relief is later found to have been erroneously
6 granted.

7 (5) An order for emergency relief shall expire upon the sooner of
8 any of the following:

9 (a) Ninety days after its issuance.

10 (b) Issuance of the commission's partial final order.

11 (c) An earlier date set by the commission. Notwithstanding this
12 subsection, the commission may extend the emergency relief order to a
13 date no later than the date on which the final order in the proceeding
14 is issued.

15 (6) An order granting or denying emergency relief under
16 subsection (2) shall be subject to immediate review in the court of
17 appeals as a matter of right by the party aggrieved. The review shall
18 be de novo and shall comply with Michigan court rule 7.211(c)(6). The
19 court may stay an order granting emergency relief upon the posting of
20 a bond or other security in an amount and on terms set by the court.
21 Regardless of whether an appeal is made under this subsection, the
22 commission shall proceed with the case and issue a final order as
23 otherwise required under this section.

24 (7) An application or complaint filed under this section shall
25 contain all information, testimony, exhibits, or other documents and
26 information within the person's possession on which the person intends
27 to rely to support the application or complaint. Applications or

1 complaints that do not meet the requirements of this subsection shall
2 be dismissed or suspended pending the receipt by the commission of the
3 required information. If the complainant or applicant requires
4 information in the possession of the respondent, not within the
5 complainant's or applicant's possession, the commission may allow a
6 reasonable opportunity for discovery to allow the complainant or
7 applicant to provide all relevant information, testimony, exhibits, or
8 other documents on which the complainant or applicant intends to rely
9 to support its application or complaint.

10 (8) The burden of proving a case filed under this act is with the
11 party filing the application or complaint.

12 (9) In a contested case under this section, the commission can
13 administer oaths, certify all official acts, and compel the attendance
14 of witnesses and the production of papers, books, accounts, documents,
15 and testimony.

16 (10) Except as otherwise provided in this section, the commission
17 shall issue a final order in a case filed under this section within 90
18 days from the date the application or complaint is filed.

19 (11) Except as provided for a hearing involving a request for
20 emergency relief, if a hearing is required, the applicant or
21 complainant shall publish a notice of hearing as required by the
22 commission within 7 days of the date the application or complaint was
23 filed or as required by the commission. The first hearing shall be
24 held within 10 days after the date of the notice. If a hearing is
25 held, the commission shall have 180 days from the date the application
26 or complaint was filed to issue its final order. If the principal
27 parties of record agree that the complexity of issues involved

1 requires additional time, the commission may have up to 210 days from
2 the date the application or complaint was filed to issue its final
3 order. If the application or complaint is subject to section 203a, the
4 commission shall have an additional ~~45~~ 60 days to issue its final
5 order.

6 (12) An order of the commission ~~shall be subject to review as~~
7 ~~provided by section 26 of 1909 PA 300, MCL 462.26~~ **UNDER THIS ACT IS**
8 **SUBJECT TO APPELLATE REVIEW AS OF RIGHT IN THE COURT OF APPEALS. THE**
9 **APPEAL SHALL BE INITIATED BY THE FILING OF A CLAIM OF APPEAL WITH THE**
10 **COURT OF APPEALS WITHIN 30 DAYS OF THE ISSUANCE OF AN ORDER OR WITHIN**
11 **30 DAYS OF AN ORDER ISSUED ON A PETITION FOR REHEARING OF AN ORDER.**

12 (13) If a complaint is filed under this section by a provider
13 against another provider, the provider of service shall not
14 discontinue service during the period of the contested case, including
15 the alternative dispute process, if the provider receiving the service
16 has posted a surety bond, provided an irrevocable letter of credit, or
17 provided other adequate security in an amount and on a form as
18 determined by the commission.

19 (14) Except if there is a request for emergency relief under this
20 section, if the complaint filed under this section involves an
21 interconnection dispute between providers, the commission shall
22 require the parties to utilize the alternative dispute process under
23 section 203a.

24 (15) In addition to any other relief provided by this act, the
25 commission or a party may seek to compel compliance with a commission
26 order by proceedings in mandamus, injunction, or by other appropriate
27 civil remedies in the circuit court or other court of proper

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jurisdiction.

(16) ~~The amendatory act that added this subsection does not amend, alter, or limit any case or proceeding commenced before the effective date of this subsection.~~ **UPON THE FILING OF A MOTION FOR STAY, THE COMMISSION MAY, ON TERMS AS IT CONSIDERS JUST, STAY THE EFFECT OR ENFORCEMENT OF AN ORDER. A MOTION FOR STAY, INCLUDING A REQUEST FOR SETTING THE AMOUNT OF ANY APPEAL BOND, IS GOVERNED BY THE PROVISIONS FOR OBTAINING A STAY OF A CIVIL ACTION SET FORTH IN RULE 7.209 OF THE MICHIGAN COURT RULES. THE COMMISSION SHALL DECIDE A MOTION FOR STAY WITHIN 10 DAYS FROM THE DATE THE MOTION IS FILED WITH THE COMMISSION.**

Sec. 203a. (1) For all complaints involving a dispute of \$1,000.00 or less, a dispute under section 203(14), or ~~<<at the option of the complainant~~

~~>>~~, for a period of ~~45~~ 60 days after the date the complaint is filed under section 203, the parties shall attempt alternative means of resolving the complaint.

(2) Any alternative means that will result in a recommended settlement may be used that is agreed to by the principal parties of record, including, but not limited to, settlement conferences, mediation, and other informal dispute resolution methods. If the parties cannot agree on an alternative means within ~~20~~ 10 days after the date the complaint is filed, the commission shall order mediation. Within the ~~45-day~~ 60-DAY period required under subsection (1), a recommended settlement shall be made to the parties.

(3) Within 7 days after the date of the recommended settlement, each party shall file with the commission a written acceptance or

1 rejection of the recommended settlement. If the parties accept the
 2 recommendation, then the recommendation shall become the final order
 3 in the contested case under section 203.

4 (4) If a party rejects **OR FAILS TO RESPOND WITHIN 7 DAYS TO** the
 5 recommended settlement, then the application or complaint shall
 6 proceed to a contested case hearing under section 203.

7 (5) The party that rejects the recommended settlement shall pay
 8 the opposing party's actual costs of proceeding to a contested case
 9 hearing, including attorney fees, unless the final order of the
 10 commission is more favorable to the rejecting party than the
 11 recommended settlement under this section. A final order is considered
 12 more favorable if it differs by 10% or more from the recommended
 13 settlement in favor of the rejecting party.

14 (6) If the recommendation is not accepted under subsection (3),
 15 the individual commissioners shall not be informed of the recommended
 16 settlement until they have issued their final order under section 203.

17 (7) An attempt to resolve a contested case under this section is
 18 exempt from the requirements of section 203 and the administrative
 19 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

20 ~~—— (8) This section shall not extend or toll the time within which~~
 21 ~~the commission is required to issue its final order under section 203.~~

<<SEC. 203B. THE COMMISSION MAY RECEIVE A COMPLAINT, FILED PURSUANT TO SEC. 203, AGAINST A PROVIDER OF BASIC LOCAL EXCHANGE SERVICE ALLEGING THAT THE PROVIDER IS OFFERING EITHER BASIC LOCAL EXCHANGE SERVICE OR ESSENTIAL BASIC LOCAL EXCHANGE SERVICE AT A PREDATORY RATE. IF THE COMMISSION FINDS THAT A PARTY'S COMPLAINT OR DEFENSE IS PRIVILEGED, THE COMMISSION SHALL AWARD TO THE PREVAILING PARTY COSTS, INCLUDING REASONABLE ATTORNEY FEES, AGAINST THE NONPREVAILING PARTY AND THEIR ATTORNEY.

Sec. 204. If 2 or more telecommunication providers are unable to agree on a matter relating to a ~~regulated~~ telecommunication issue between the parties, including but not limited to, a matter prohibited by section 305, then either telecommunication provider may file with the commission an application for resolution of the matter.

SEC. 204A. UPON COMPLAINT OR APPLICATION FILED BY A PARTY UNDER THIS ACT, THE COMMISSION SHALL HAVE AUTHORITY TO RESOLVE A DISPUTE BETWEEN 2 PROVIDERS ARISING UNDER AN INTERCONNECTION AGREEMENT APPROVED BY THE COMMISSION.>>

22 Sec. 205. (1) The commission may investigate and resolve

23 complaints under this act. The penalties under this act shall not be
24 imposed for a violation that occurred more than 2 years before the
25 date the complaint was filed.

26 (2) If the commission finds, after notice and hearing, that the
27 quality, general availability, or conditions for the regulated service

1 violate this act or an order of the commission under this act, or is
2 adverse to the public interest, the commission may require changes in
3 how the telecommunication services are provided. ~~The commission's~~
4 ~~authority includes, but is not limited to, the revocation of a license~~
5 ~~and issuing cease and desist orders.~~

6 Sec. 210. (1) Except under the terms of a mandatory protective
7 order, trade secrets and commercial or financial information submitted
8 under this act are exempt from the freedom of information act, ~~Act~~
9 ~~No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of~~
10 ~~the Michigan Compiled Laws 1976 PA 442, MCL 15.231 TO 15.246.~~

11 (2) If information is disclosed pursuant to a mandatory
12 protective order, then the information may be included in the
13 commission's evidentiary record if admissible, ~~and remains~~ **BUT SHALL**
14 **REMAIN** confidential.

15 (3) There is a rebuttable presumption that cost studies, customer
16 usage data, marketing studies, and contracts between providers are
17 trade secrets or commercial or financial information protected under
18 subsection (1). The burden of removing the presumption under this
19 subsection is with the party seeking to have the information
20 disclosed.

21 Sec. 211. Each telecommunication provider of a regulated service
22 in this state shall pay an assessment in an amount equal to the
23 expenses of the commission pursuant to ~~Act No. 299 of the Public Acts~~
24 ~~of 1972, being sections 460.111 to 460.120 of the Michigan Compiled~~
25 ~~Laws 1972 PA 299, MCL 460.111 TO 460.120.~~

26 Sec. 213. (1) Subject to section 201, the commission may
27 promulgate rules under the administrative procedures act of 1969, 1969

1 PA 306, MCL 24.201 to 24.328.

2 (2) Effective September 1, 1996, the following administrative
3 rules shall not apply to telecommunication providers or
4 telecommunication services:

5 (a) Electric power and communication lines: R 460.581 to R
6 460.592.

7 (b) Intrastate telephone services and facilities: R 460.1951 to R
8 460.1968.

9 (c) Filing procedures for communications common carriers tariffs:
10 R 460.2051 to R 460.2057.

11 (d) Consumer standards and billing practices, residential
12 telephone service: R 460.2211 to R 460.2279.

13 (e) Uniform systems of accounts for class A and class B telephone
14 companies: R 460.9041 and R 460.9059.

15 (3) Rules promulgated after January 1, 1996 under this act are
16 considered to have been promulgated under the authority granted under
17 subsection (1). R 484.453(5), 484.455(2), 484.455(3), 484.457(3), and
18 484.458(4) of the Michigan administrative code may not be enforced
19 until a court determines that the rules do not exceed the commission's
20 authority under this act. It is the legislature's intent that
21 providers voluntarily comply with the rules until a court makes a
22 determination. A provider that voluntarily agrees to abide by the
23 rules does not relinquish its rights to challenge the legality of the
24 rules.

25 (4) A proceeding before the commission to promulgate rules under
26 this act shall be concluded within 180 days from the date that the
27 proceeding is initiated.

1 Sec. 214. (1) The commission shall issue orders that assign
2 the telephone digits 2-1-1 to community resource information and
3 referral answering points established under subsection (3) and
4 prescribe appropriate interconnection orders to carry out the
5 intent of this section.

6 (2) Each provider of basic local exchange service in this
7 state shall assign the telephone number 2-1-1 only to a community
8 resource information and referral answering point established under
9 subsection (3).

10 (3) The commission shall designate a community resource
11 information and referral entity to be the 2-1-1 answering point for
12 various geographical areas within this state. In making its
13 determination, the commission shall consider all of the following:

14 (a) The recommendations of ~~the Michigan alliance for~~
15 ~~information and referral systems~~ **2-1-1, INC.**

16 (b) Whether the relevant state-endorsed ~~multipurpose~~
17 **COMMUNITY** collaborative bodies are in agreement.

18 (c) Whether the entity has established a framework to assure
19 the provision of coverage of the 2-1-1 telephone number 24 hours
20 per day, 7 days per week.

21 (d) Whether the entity meets 2-1-1 standards adopted by the
22 Michigan alliance for information and referral systems.

23 (4) Each community resource information and referral entity
24 designated by the commission to be the 2-1-1 answering point for a
25 particular geographical area within the state shall establish the
26 framework to provide sufficient resources to operate the 2-1-1
27 telephone number 24 hours per day, 7 days per week.

1 (5) WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT
2 THAT ADDED THIS SUBSECTION, THE COMMISSION SHALL DESIGNATE AN
3 ENTITY TO SERVE AS THE STATE 2-1-1 COORDINATING AGENCY. THE
4 DESIGNATED AGENCY SHALL ASSIST AND PROVIDE INFORMATION AND
5 RESOURCES IN IMPLEMENTING 2-1-1 SERVICE IN THIS STATE. THE
6 DESIGNATED AGENCY SHALL ALSO COORDINATE THE PROVIDING OF 2-1-1
7 SERVICES OF THE COMMUNITY RESOURCE INFORMATION AND REFERRAL
8 ENTITIES DESIGNATED UNDER SUBSECTION (3).

9 (6) BEFORE A STATE AGENCY OR LOCAL UNIT OF GOVERNMENT
10 IMPLEMENTS A COMMUNITY RESOURCE INFORMATION OR REFERRAL SERVICE,
11 THE STATE AGENCY OR LOCAL UNIT OF GOVERNMENT SHALL CONSULT WITH THE
12 STATE 2-1-1 COORDINATING AGENCY DESIGNATED BY THE COMMISSION UNDER
13 SUBSECTION (5).

14 (7) BY 2008, THE MPSC SHALL ISSUE ORDERS THAT ASSIGN THE
15 TELEPHONE DIGITS 2-1-1 TO A STATEWIDE CENTRAL ROUTING SYSTEM
16 CONNECTING REGIONAL COMMUNITY RESOURCE INFORMATION AND REFERRAL
17 ANSWERING POINTS ESTABLISHED UNDER SUBSECTION (3). EACH PROVIDER OF
18 BASIC LOCAL EXCHANGE SERVICE IN THE STATE WILL REASSIGN THE
19 TELEPHONE NUMBER 2-1-1 TO THE CENTRAL SYSTEM WITHOUT ADDITIONAL
20 CHARGE.

21 SEC. 215. FOR MARKETS DECLARED COMPETITIVE UNDER SECTION 208,
22 THE COMMISSION SHALL ESTABLISH AND CARRY OUT A CUSTOMER EDUCATION
23 PROGRAM TO DO ALL OF THE FOLLOWING:

24 (A) INFORM CUSTOMERS OF THE CHANGES IN THE PROVISION OF
25 TELECOMMUNICATION SERVICES, INCLUDING, BUT NOT LIMITED TO, THE
26 AVAILABILITY OF COMPETITIVE TELECOMMUNICATION PROVIDERS.

27 (B) INFORM CUSTOMERS OF THE APPLICABLE LAWS AND REQUIREMENTS

1 RELATING TO DISCLOSURES, EXPLANATIONS, OR SALES PRACTICES FOR
2 TELECOMMUNICATION PROVIDERS.

3 (C) PROVIDE ASSISTANCE TO CUSTOMERS IN UNDERSTANDING AND USING
4 THE INFORMATION TO MAKE REASONABLY INFORMED CHOICES.

<<SEC. 215A. (1) THE SCOPE OF COMMISSION AUTHORITY REGARDING
WIRELESS TELECOMMUNICATIONS DOES NOT EXTEND TO THE REGULATION OF MARKET
ENTRY OR EXIT BY, THE ESTABLISHMENT OF RATES AND SERVICES OFFERED BY, OR
RATES OF RETURN EARNED BY WIRELESS TELECOMMUNICATIONS PROVIDERS. THE
COMMISSION MAY USE ITS AUTHORITY IN THE OVERSIGHT OF MARKETING AND
BILLING PRACTICES, SERVICE QUALITY, PROVISION OF ACCURATE COVERAGE MAPS,
AND RESOLUTION OF DISPUTES BETWEEN WIRELESS TELECOMMUNICATIONS PROVIDERS
AND THEIR SUBSCRIBERS.

(2) THE COMMISSION SHALL ESTABLISH STANDARDS FOR, AND PUBLISH
INFORMATION REGARDING, THE QUALITY OF SERVICE ASSOCIATED WITH WIRELESS
TELECOMMUNICATIONS PROVIDERS OPERATING IN THE STATE, INCLUDING CALL
CENTER PERFORMANCE, BLOCKED AND DROPPED CALL RATES, AND THE NUMBER OF
COMPLAINTS RECEIVED BY THE COMMISSION FOR EACH WIRELESS
TELECOMMUNICATIONS PROVIDER, PER 1,000 SUBSCRIBERS, QUARTERLY. THIS
INFORMATION SHALL BE MADE AVAILABLE THROUGH THE COMMISSION'S WEBSITE,
PAMPHLETS, OR OTHER MEANS SUITABLE FOR MASS DISTRIBUTION.

(3) THE COMMISSION SHALL MONITOR THE DEPLOYMENT OF WIRELESS
TELECOMMUNICATIONS NETWORKS AND DEVELOP RULES FOR THE PRODUCTION OF
ACCURATE COVERAGE MAPS BY WIRELESS TELECOMMUNICATIONS PROVIDERS IN THE
STATE. THE COMMISSION SHALL DEVELOP SIGNAL STRENGTH THRESHOLDS, MEASURED
IN DECIBLES RELATIVE TO 1 MILLIWATT, TO BE USED BY WIRELESS
TELECOMMUNICATIONS PROVIDERS IN PRODUCING THE COVERAGE MAPS. THE
COMMISSION MAY DEVELOP OTHER SERVICE QUALITY MEASUREMENTS, AS
APPROPRIATE, SUCH AS ASSESSMENTS OF VOICE OR DATA TRANSMISSION QUALITY.
THE COMMISSION SHALL DEVELOP SIGNAL STRENGTH THRESHOLDS THAT IDENTIFY
LEVELS OF QUALITY OF SERVICE IN COVERAGE AREAS THAT ARE APPROPRIATE FOR
THE POPULATION CHARACTERISTICS AND TERRAIN CONDITIONS IN COVERAGE AREAS
OF THE STATE. MAPS MAY ALSO DEPICT OTHER MEASURES OF SERVICE QUALITY, AS
APPROPRIATE, THAT SHALL BE DETERMINED BY THE COMMISSION. THE VERIFIED
COVERAGE MAPS APPROVED BY THE COMMISSION SHOULD CLEARLY CONVEY
INFORMATION REGARDING THE QUALITY OF SERVICE TO THE PUBLIC AND SHOULD
HAVE UNIFORM CHARACTERISTICS ACROSS WIRELESS TELECOMMUNICATIONS PROVIDERS
TO PROMOTE SERVICE QUALITY COMPARISONS BY CONSUMERS.

(4) THE COMMISSION SHALL DEVELOP METHODS TO VERIFY THE ACCURACY OF
COVERAGE MAPS SUBMITTED BY WIRELESS TELECOMMUNICATIONS PROVIDERS TO THE
COMMISSION FOR APPROVAL TO ENSURE THEIR COMPLIANCE WITH THE RULES
ESTABLISHED BY THE COMMISSION UNDER THIS ACT. THE ACCURACY OF THESE MAPS
SHOULD BE VERIFIED NO LESS THAN ANNUALLY. THE COMMISSION SHALL MAKE
AVAILABLE TO THE PUBLIC COPIES OF VERIFIED ACCURATE COVERAGE MAPS FOR
WIRELESS TELECOMMUNICATIONS PROVIDERS OPERATING IN THIS STATE.>>

5 Sec. 303. (1) The commission may alter or amend the geographic
6 area of a license, grant a competing license, or revoke a license of a
7 provider if within 2 years from the date the license was granted the
8 provider has not marketed its services to all potential customers or

9 has refused to provide services to certain customers.

10 (2) A telecommunication provider shall not provide basic local
11 exchange service to customers or end-users located within another
12 telecommunication provider's licensed service area except through
13 interconnection arrangements as provided by this act.

14 (3) The sale or transfer of shares of stock of a provider of
15 basic local exchange service is not a sale or transfer of a license or
16 a discontinuance of service.

17 (4) The commission has the authority to approve or deny a
18 proposed addition, elimination, or modification of an area code in
19 this state. The commission shall give public notice and shall conduct
20 a public hearing in the affected geographic area before an addition,
21 elimination, or modification of an area code is made in this state.

22 ~~—— (5) To the extent that it is technically and economically~~
23 ~~feasible, the commission shall issue orders requiring the modification~~
24 ~~of all area code boundaries in this state to insure that they conform~~
25 ~~to county lines.~~

26 Sec. 304. (1) <<ESSENTIAL BASIC LOCAL EXCHANGE SERVICE SHALL BE
OFFERED TO EACH RESIDENTIAL CUSTOMER IN THIS STATE. EACH PROVIDER SHALL
OFFER ESSENTIAL BASIC LOCAL EXCHANGE SERVICE TO SUCH RESIDENTIAL CUSTOMER
WITHIN THE PROVIDER'S SERVICE AREA.>> ~~Except as provided in section~~
304a, the **THE**

27 rates for **ESSENTIAL** basic local exchange service shall be just and

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reasonable. ~~<<THE COMMISSION>>~~ SHALL SET THE INITIAL RATES FOR ESSENTIAL BASIC LOCAL EXCHANGE SERVICE TO BE EFFECTIVE WITHIN 90 DAYS FROM THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SUBSECTION (13). THE INITIAL RATES MAY NOT EXCEED THE RATES IN PLACE BEFORE THE RATES ARE SET UNDER THIS SUBSECTION UNLESS THE RATES IN PLACE DO NOT EXCEED THE TOTAL SERVICE LONG RUN INCREMENTAL COSTS OF THE RATES. ~~<<THE RATES FOR ESSENTIAL BASIC LOCAL EXCHANGE SERVICE SHALL ONLY BE ALTERED AS PROVIDED UNDER THIS SECTION AND ARE NOT SUBJECT TO SECTION 208.>>~~

(2) A provider may alter its rates for **ESSENTIAL** basic local exchange services by 1 or more of the following:

(a) Filing with the commission notice of a decrease, discount, **PROMOTIONAL RATE**, or other rate reduction in ~~—a—~~ **AN ESSENTIAL** basic local exchange rate. A rate alteration under this subdivision shall become effective without commission review or approval.

(B) **FILING WITH THE COMMISSION A NOTICE OF AN INCREASE IN AN ESSENTIAL BASIC LOCAL EXCHANGE RATE TO A LEVEL NOT TO EXCEED THE INITIAL RATE SET UNDER SUBSECTION (1) OR A RATE ESTABLISHED UNDER SUBDIVISION (C) OR (F). A RATE ALTERATION UNDER THIS SUBDIVISION IS EFFECTIVE WITHOUT COMMISSION REVIEW OR APPROVAL.**

(C) ~~—(b)—~~ Filing with the commission notice of an **ANNUAL** increase in ~~—a—~~ **AN ESSENTIAL** basic local exchange rate that does not exceed 1% less than the consumer price index. Unless the commission determines that the rate alteration exceeds the allowed increase under this subdivision, the rate alteration shall take effect ~~—90~~ **NOT LESS THAN 60** days from the date of the notice required under subsection (3). As used in this ~~—subdivision~~ **SECTION**, "consumer price index" means the most recent reported annual average percentage increase in the Detroit consumer price

1 index for all items for the prior 12-month period by the United
2 States department of labor.

3 (D) FILING WITH THE COMMISSION NOTICE OF A COMBINATION OF
4 INCREASES AND DECREASES IN ESSENTIAL BASIC LOCAL EXCHANGE RATES
5 THAT ARE PROJECTED TO BE REVENUE NEUTRAL FOR THE NEXT 12-MONTH
6 PERIOD. UNLESS THE COMMISSION DETERMINES THAT THE COMBINATION WILL
7 RESULT IN AN INCREASE IN REVENUES FOR THE SERVICES IN QUESTION
8 DURING THE NEXT 12-MONTH PERIOD, THE COMBINATION OF INCREASES AND
9 DECREASES SHALL TAKE EFFECT NOT LESS THAN 60 DAYS FROM THE NOTICE
10 REQUIRED UNDER SUBSECTION (3).

11 (E) FILING WITH THE COMMISSION NOTICE OF A RATE ALTERATION
12 THAT INCLUDES A RANGE OF RATES FOR ESSENTIAL BASIC LOCAL EXCHANGE
13 SERVICE WITHIN WHICH THE PROVIDER CAN INCREASE OR DECREASE RATES IN
14 DIFFERENT AMOUNTS FOR DIFFERENT GEOGRAPHIC AREAS. THE UPPER LIMIT
15 OF THE RANGE OF INCREASES SHALL BE EQUAL TO 1% LESS THAN THE
16 CONSUMER PRICE INDEX AND THE LOWER LIMIT SHALL BE SELECTED BY THE
17 PROVIDER CONSISTENT WITH THE REQUIREMENTS OF THIS ACT. THE RANGE OF
18 RATES SHALL TAKE EFFECT WITHOUT COMMISSION REVIEW OR APPROVAL NOT
19 LESS THAN 60 DAYS FROM THE DATE OF THE NOTICE REQUIRED UNDER
20 SUBSECTION (3).

21 (F) ~~—(e)—~~ Filing with the commission an application to
22 increase ~~—a—~~ **AN ESSENTIAL** basic local exchange rate in an amount
23 greater than that allowed under ~~—subdivision—(b)—~~ **SUBDIVISIONS (C),**
24 **(D), AND (E).** The application shall be accompanied with sufficient
25 documentary support that the rate alteration is just and
26 reasonable. The commission shall make a determination within the
27 90-day period provided for in subsection (5) of 1 of the following:

1 (i) That the rate alteration is just and reasonable.

2 (ii) That a filing under section 203 is necessary to review the
3 rate alteration.

4 (3) Notice to customers of a rate alteration is required for a
5 rate alteration under subsection ~~—(2)(b) or (c)—~~ **(2) (C), (D), (E),**
6 **AND (F)** and section 304a and shall be included in or on the bill of
7 each affected customer of the provider before the effective date of
8 the rate alteration.

9 (4) The notice required under subsection (3) shall contain at
10 least all of the following information:

11 (a) A statement that the customer's rate may change.

12 (b) An estimate of the amount of the annual change for the
13 typical residential customer that would result by the rate change.

14 (c) A statement that a customer may comment on or receive
15 complete details of the rate alteration by calling or writing the
16 commission. The statement shall also include the telephone number
17 and address of the commission. Complete details of the rate
18 alteration shall be provided free of charge to the customer at the
19 expense of the provider.

20 (5) Except as otherwise provided in subsections (2) and (6),
21 an altered **ESSENTIAL** basic local exchange rate shall take effect
22 ~~90~~ 10 days from the date of the notice required by subsection (3).

23 (6) Upon receiving a complaint or pursuant to a determination
24 under subsection ~~—(2)(c)—~~ **(2) (F)**, the commission may require a
25 filing under section 203 to review a proposed rate alteration under
26 subsection ~~—(2)(c)—~~ **(2) (F)**. The commission's final order may
27 approve, modify, or reject the rate alteration.

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(7) In reviewing a rate alteration under subsection ~~—(6)—~~

(2) (F), the commission shall consider only 1 or more of the following factors if relevant to the rate alteration as specified by the provider:

(a) Total service long run incremental cost of **ESSENTIAL** basic local exchange services.

(B) WHETHER THE PROPOSED RATE ALTERATION WOULD DISCOURAGE COMPETITION FOR TELECOMMUNICATION SERVICES.

(C) ~~—(b)—~~ Comparison of the proposed rate to the rates charged by other providers in this state for the same service.

~~——— (c) Whether a new function, feature, or capability is being offered as a component of basic local exchange service.~~

(d) Whether there has been an increase in the costs to provide **ESSENTIAL** basic local exchange service in the geographic area of the proposed rate.

(e) Whether the provider's further investment in the network infrastructure of the geographic area of the proposed rate is economically justifiable without the proposed rate.

(F) WHETHER ADDITIONAL REVENUE RESULTING FROM THE RATE ALTERATION COULD BE REINVESTED IN THE BASIC LOCAL EXCHANGE NETWORK FOR THE DEVELOPMENT OR IMPLEMENTATION OF NEW TECHNOLOGY OR THE ENHANCEMENT OF THE TELECOMMUNICATIONS INFRASTRUCTURE.

(G) WHETHER THE PROPOSED RATE ALTERATION PRODUCES A REASONABLE RATE.

<<(8) A PROVIDER SHALL BE ALLOWED ONLY 1 RATE INCREASE UNDER THIS SECTION DURING ANY 12-MONTH PERIOD. A PROVIDER MAY OFFER A SPECIAL INCENTIVE, BUT MAY NOT INCREASE THE RATE ABOVE THE RATE ESTABLISHED PRIOR TO THE SPECIAL INCENTIVE.>>

~~——— (8) A provider shall be allowed only 1 rate increase for each class or type of service during any 12 month period.~~

~~——— (9) A provider shall not make a rate alteration under this~~

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~~section until the rate has been restructured under section 304a.~~

(9) ~~—(10)—~~ The commission shall exempt a provider from this section and section 310(2) if it finds all of the following:

(a) The provider provides basic local exchange service or basic local exchange and toll service to less than 250,000 end-users in this state.

(b) The provider offers to end-users single-party basic local exchange service, tone dialing, toll access service, including end-user common line services and dialing parity at a total price of no higher than the amount charged as of May 1, 2000.

(c) The provider provides dialing parity access to operator, telecommunication relay, and emergency services to all basic local exchange end-users.

(10) A PROVIDER MAY CHARGE A LATE PAYMENT FEE TO CUSTOMERS WHO DO NOT MAKE TIMELY PAYMENTS OF THE OUTSTANDING BALANCE OF THEIR ACCOUNT AS PROVIDED IN TARIFFS FILED WITH THE COMMISSION. <<A PROVIDER SHALL NOT CHARGE A LATE PAYMENT FEE IN EXCESS OF 5% OF THE CUSTOMER'S OUTSTANDING ACCOUNT BALANCE.>>

(11) ~~—(11)—~~ A call made to a local calling area adjacent to the caller's local calling area shall be considered a local call and shall be billed as a local call.

<<(12) A CALL MADE TO A LOCAL CALLING AREA ADJACENT TO THE CALLER'S LOCAL CALLING AREA SHALL BE CONSIDERED A LOCAL CALL AND SHALL BE BILLED AS A LOCAL CALL. A CALL MADE TO A CALLED PARTY WHO IS NOT LOCATED WITHIN THE GEOGRAPHIC AREA OF THE CALLER'S LOCAL CALLING AREA OR AN ADJACENT LOCAL CALLING AREA AS DEFINED BY THE COMMISSION'S ORDER IN CASE NUMBERS U-12515 AND U-12528, DATED FEBRUARY 5, 2001, IS NOT A LOCAL CALL IF THE TARIFF OF THE PROVIDER ORIGINATING THE CALL DOES NOT CLASSIFY THE CALL AS A LOCAL CALL.>>

<<

(13) A PROVIDER OF ESSENTIAL BASIC LOCAL EXCHANGE SERVICE MAY PROVIDE THAT SERVICE USING DIFFERENT TECHNOLOGIES, PROVIDED THE ESSENTIAL

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1 BASIC LOCAL EXCHANGE SERVICE IS OFFERED AS REQUIRED BY THIS ACT.

2
3
4 >>
(14) A PERSON <<WITH DISABILITIES, OR WHO IS VOLUNTARILY PROVIDING
A SERVICE FOR AN ORGANIZATION CLASSIFIED BY THE INTERNAL REVENUE SERVICE
AS A SECTION 501 (C) (3) OR (19) ORGANIZATION, OR>> WHO PROVIDES A SERVICE
5 FOR A CONGRESSIONALLY
CHARTERED VETERANS ORGANIZATION OR ITS DULY AUTHORIZED FOUNDATION
6 SHALL BE EXEMPT FROM ANY CALL LIMIT AND SHALL RECEIVE ESSENTIAL
7 BASIC LOCAL EXCHANGE SERVICE ALLOWING UNLIMITED CALLS PER MONTH FOR
8 A FLAT RATE. A PERSON EXEMPT FROM ANY CALL CAP UNDER THIS
9 SUBSECTION SHALL NOT BE CHARGED FOR SUCH UNLIMITED ESSENTIAL BASIC
10 LOCAL EXCHANGE SERVICE A RATE GREATER THAN THE FLAT RATE CHARGED
11 OTHER RESIDENTIAL CUSTOMERS FOR ESSENTIAL BASIC LOCAL EXCHANGE
12 SERVICE.

<<(15) IF A CUSTOMER OF A WIRELESS TELECOMMUNICATIONS SERVICE
TERMINATES A SERVICE CONTRACT BEFORE THE EXPIRATION DATE OF THE CONTRACT,
THE WIRELESS PROVIDER MAY CHARGE THE CUSTOMER A TERMINATION FEE NOT TO
EXCEED \$20.00.

(16) A provider shall file with the commission for review and
approval a tariff for the rates and charges for calls made under
essential basic local exchange service that exceed the 200-call limit.>>

13 Sec. 304a. (1) Upon filing with and the approval of the
14 commission, a basic local exchange provider shall restructure its
15 rates for basic local exchange, toll, and access services to ensure
16 that the rates are not less than the total service long run
17 incremental cost of providing each service.

18 ~~(2) The provider may determine when each rate is restructured~~
19 ~~and may phase in the rate restructuring until January 1, 2000.~~
20 ~~After January 1, 2000, the~~ A provider's rates for basic local
21 exchange, toll, and access services shall not be less than the
22 total service long run incremental cost for each service.

23 (3) The rate restructuring may include, but is not limited to,
24 1 or more of the following:

25 (a) Touchtone capability and associated charges into basic
26 local exchange services at rate levels no greater than the sum of
27 the current basic local exchange service rates and the touchtone

1 service rates. Residential customers with rotary dial service may
2 retain such service at their current rate.

3 (b) Within basic local exchange rates, all or part of the
4 existing rate elements and charges for other services that are
5 designed to recover the costs associated with the local exchange
6 network.

7 (c) Restructure existing basic local exchange rates to reflect
8 the existing variations in costs to provide basic local exchange
9 services based upon differences in geographic areas, classes of
10 customers, calling patterns and volumes, technology, and other
11 factors.

12 (4) The commission shall have 45 days from the date of a
13 filing under this section to review the proposed rate restructuring
14 to ensure that the rates are not less than the total service long
15 run incremental costs of the service, or that the rate
16 restructuring brings rates that are below such costs closer to the
17 costs. If the commission is unable to make a determination within
18 the allowed 45 days under this subsection, the commission shall
19 have an additional 45 days to review the rate restructuring.

20 (5) If the commission does not complete its review within the
21 time period required under subsection (4), the rate restructuring
22 is considered approved under this section. The basic local exchange
23 provider may implement the restructured rates 10 days following
24 commission approval or the end of the period provided for
25 commission review, whichever is earlier.

26 (6) Except as provided in subsection (7), for the purposes of
27 this section and the act, providers who, together with any

1 affiliated providers, provide basic local exchange service or basic
2 local exchange and toll service to less than 250,000 end-users in
3 this state may determine total service long run incremental cost
4 through preparation of a cost study or may determine that their
5 total service long run incremental cost is the same as that of a
6 provider with more than 250,000 end-users.

7 (7) A provider of basic local exchange service with less than
8 15,000 end-users in this state may determine that their total
9 service long run incremental cost is the same as that of a provider
10 with more than 250,000 end-users.

<<SEC. 304C. (1) ALL PROVIDERS OF WIRELESS TELECOMMUNICATIONS
SERVICES SHALL PUBLISH VERIFIED COVERAGE MAPS SHOWING THE COVERAGE AREA
ASSOCIATED WITH ALL STATEWIDE HOME CALLING AREAS AND EACH CALLING PLAN.
WIRELESS TELECOMMUNICATIONS PROVIDERS SHALL MAKE COPIES OF VERIFIED
COVERAGE MAPS AVAILABLE TO PROSPECTIVE AND EXISTING SUBSCRIBERS. COVERAGE
MAPS SHOULD BE PREPARED IN COMPLIANCE WITH COMMISSION RULES AND SUBMITTED
TO THE COMMISSION FOR VERIFICATION AND APPROVAL NO LESS THAN ANNUALLY.

(2) WIRELESS TELECOMMUNICATIONS PROVIDERS SHALL PUBLISH RATE
INFORMATION IN A CLEAR AND UNDERSTANDABLE FORMAT. ANY RESTRICTIONS ON THE
USE OF PACKAGE MINUTES SHOULD BE CLEARLY IDENTIFIED. PRICES, RATES, OR
TERM CONTRACTS ASSOCIATED WITH WIRELESS TELECOMMUNICATIONS SERVICES SHALL
INCLUDE A DISCLOSURE OF ANY GEOGRAPHIC LIMITATION TO THE ADVERTISED
PRICE, RATE, OR TERM CONTRACT. RATE INFORMATION SHOULD INCLUDE A GOOD
FAITH ESTIMATE OF THE TOTAL MONTHLY COST OF THE SERVICE, WHICH INCLUDES
ANY ADDITIONAL SURCHARGES, CALL SETUP CHARGES, FEES, OR TAXES APPLICABLE
TO THE PRICES, RATE, OR TERM CONTRACTS. RATE INFORMATION SHOULD BE
CLEARLY IDENTIFIED. TERMINATION AND REACTIVATION FEES SHOULD BE CLEARLY
STATED.

SEC. 304D. (1) FOR A PERIOD OF UP TO 20 DAYS AFTER THE DATE OF THE
FIRST BILL FOR THE FIRST FULL MONTH OF SERVICE FOLLOWING SERVICE
ACTIVATION, THE WIRELESS TELECOMMUNICATIONS SERVICE SUBSCRIBER SHALL BE
ALLOWED, WITHOUT PENALTY, TO CANCEL THE CONTRACT WITH THE WIRELESS
TELECOMMUNICATIONS PROVIDER AND RETURN FOR A FULL REFUND ANY WIRELESS
TELECOMMUNICATIONS EQUIPMENT ACQUIRED FROM THE WIRELESS
TELECOMMUNICATIONS PROVIDER, OR FROM ITS AGENTS OR AUTHORIZED DEALERS.
THE SUBSCRIBER REMAINS RESPONSIBLE FOR ANY USE CHARGES INCURRED BEFORE
TERMINATION. REFUNDS FOR EQUIPMENT ARE CONTINGENT UPON THE RETURN OF ALL
WIRELESS EQUIPMENT IN PROPER WORKING ORDER.>>

11 Sec. 305. ~~—(1)—~~ A provider of basic local exchange service
12 shall not do any of the following:

13 (a) Discriminate against another provider by refusing or
14 delaying access service to the local exchange.

15 (b) Refuse or delay interconnections or provide inferior
16 connections to another provider.

17 (c) Degrade the quality of access service provided to another
18 provider.

19 (d) Impair the speed, quality, or efficiency of lines used by
20 another provider.

21 (e) Develop new services to take advantage of planned but not
22 publicly known changes in the underlying network.

23 (f) Refuse or delay a request of another provider for
24 information regarding the technical design, equipment capabilities
25 and features, geographic coverage, and traffic patterns of the
26 local exchange network.

27 (g) Refuse or delay access service or be unreasonable in

1 connecting another provider to the local exchange whose product or
2 service requires novel or specialized access service requirements.

3 (h) Upon a request, fail to fully disclose in a timely manner
4 all available information necessary for the design of equipment
5 that will meet the specifications of the local exchange network.

6 (i) Discriminate against any provider or any party who
7 requests the information for commercial purposes in the
8 dissemination of customer proprietary information. A provider shall
9 provide without unreasonable discrimination or delay telephone
10 directory listing information and related services to persons
11 purchasing telephone directory listing information to the same
12 extent and in the same quality as provided to the provider,
13 affiliates of the provider, or any other listing information
14 purchaser.

15 (j) Refuse or delay access service by any person to another
16 provider.

17 (k) Sell, lease, or otherwise transfer an asset to an
18 affiliate for an amount less than the fair market value of the
19 asset.

20 (l) Buy, lease, or otherwise acquire an asset from an affiliate
21 of the provider for an amount greater than the fair market value of
22 the asset.

23 (m) Bundle unwanted services or products for sale or lease to
24 another provider.

25 (n) Perform any act that has been prohibited by this act or an
26 order of the commission.

27 (o) Sell services or products, extend credit, or offer other

terms and conditions on more favorable terms to an affiliate of the provider than the provider offers to other providers.

(p) Discriminate in favor of an affiliated burglar and fire alarm service over a similar service offered by another provider.

<<(Q) OFFER BASIC LOCAL EXCHANGE SERVICE OR ESSENTIAL BASIC LOCAL EXCHANGE SERVICE AT PREDATORY RATES.>>

~~(2) A provider of cellular telecommunication services shall not do either of the following:~~

~~(a) Unreasonably provide services, extend credit, or offer other terms and conditions on more favorable terms to an affiliate of the provider or to its retail department that sells to end users than the provider offers to other providers.~~

~~(b) Unreasonably use rates or proceeds from providers, directly or indirectly, to subsidize or offset the costs of cellular service offered by the provider, or an affiliate of the provider, to other providers or to end users.~~

~~(3) Until a provider has complied with section 304a, the provider of a rate regulated service shall not provide that service in combination with an unregulated service in section 401 or an unbundled or resold service under section 357 at a price that does not exceed the total service long run incremental cost of each service.~~

<<SEC. 305A. ANY AGREEMENT OR CONTRACT THE CONSUMER OR SUBSCRIBER MAY EXECUTE SHALL BE A SEPARATE DOCUMENT FROM MARKETING MATERIALS USED TO PROMOTE WIRELESS TELECOMMUNICATIONS PRODUCTS OR SERVICES AND SHALL BE UNAMBIGUOUS AND LEGIBLE. RATES PROVIDED IN AGREEMENTS OR CONTRACTS SHOULD INCLUDE A GOOD FAITH ESTIMATE OF THE TOTAL MONTHLY COST OF A PLAN, INCLUDING TAXES, SURCHARGES, AND OTHER FEES THAT WILL APPEAR ION THE CUSTOMER'S BILL. THE TERMS AND CONDITIONS SPECIFIED IN THE CONTRACT REGARDING PRICES, TERMS OF USE, PACKAGE MINUTES, AND NONGOVERNMENT CHARGES ARE BINDING ON THE PROVIDER DURING THE TERM OF THE PLAN.

SEC. 305B. EACH WIRELESS TELECOMMUNICATIONS PROVIDER SHALL ESTABLISH AND MAINTAIN A TOLL-FREE CUSTOMER SERVICE TELEPHONE NUMBER WITH ACCESS TO A LIVE OPERATOR, THROUGH WHICH CONSUMERS MAY LODGE RELEVANT COMPLAINTS AND THROUGH WHICH ALL OF THE FOLLOWING INFORMATION MAY BE OBTAINED BY CONSUMERS:

(A) ALL RATES, SURCHARGES, AND FEES.

(B) THE BALANCE OF MINUTES IN THE CONSUMER'S ACCOUNT, IF APPLICABLE.

(C) THE PROCESS TO DISPUTE CHARGES.

SEC. 305C. NOT LESS THAN 30 DAYS FROM THE EXPIRATION DATE OF A SERVICE CONTRACT WITH A PROVIDER OF CELLULAR TELECOMMUNICATION SERVICE, THE PROVIDER SHALL GIVE NOTICE TO THE CUSTOMER OF THE EXPIRATION DATE.>>

SEC. 305D. A PROVIDER'S RATES FOR WHOLESALE SERVICES SHALL BE AT

RATES BELOW ITS RETAIL RATES.

SEC. 305E. A PROVIDER OF A TELECOMMUNICATION SERVICE IN THIS STATE SHALL PROVIDE ON EACH SERVICE CONTRACT INFORMATION REGARDING WHICH ENTITY IS RESPONSIBLE FOR REPAIRS AND RESOLUTION OF OTHER SERVICE ISSUES. THE NOTICE WILL ALSO INCLUDE INFORMATION ON HOW TO CONTACT THE SERVICE PROVIDER WHICH IS RESPONSIBLE FOR SERVICE AND REPAIR. >>

21 Sec. 306. ~~Except as provided in section 312b, a~~ **A**
22 telecommunication provider of basic local exchange service is not
23 required to provide toll services. If a telecommunication provider
24 that provides basic local exchange service does not offer toll or
25 have interconnection with a toll provider, the commission shall
26 order a toll provider to interconnect with the telecommunication
27 provider upon terms that are fair to both providers.

1 Sec. 309. (1) A provider of basic local exchange service shall
2 provide to each customer local directory assistance and, at no
3 additional charge to the customer, an annual printed telephone
4 directory.

5 ~~—— (2) A provider of interzone service, as defined in tariffs on~~
6 ~~file with the commission on December 31, 1991, shall continue to~~
7 ~~provide the service pursuant to the terms of the tariffs. A~~
8 ~~provider may alter interzone service rates pursuant to provisions~~
9 ~~of section 304.~~

10 (2) ~~—(3)—~~ A provider of basic local exchange service shall
11 provide each customer at no additional charge the option of having
12 access to 900 prefix services blocked through the customer's
13 exchange service.

14 Sec. 309a. ~~—(1)—~~ A provider of telecommunication service,
15 including, basic local exchange service, may provide cable service
16 if the provider has received a franchise agreement from the local
17 unit of government to provide cable service.

18 ~~—— (2) If a new provider of cable service seeks to offer the~~
19 ~~service in an area that has an incumbent provider of cable service~~
20 ~~operating under a franchise agreement, in negotiating a franchise~~
21 ~~agreement during the term of a franchise agreement entered into~~
22 ~~prior to July 1, 1995, the local government unit may consider terms~~
23 ~~and conditions of the franchise agreement of the incumbent~~
24 ~~provider, existing cable franchise fees, development of new~~
25 ~~services, the state of technology, and other factors.~~

26 Sec. 310. (1) Except as provided by this act, the commission
27 shall not review or set the rates for toll access services.

1 (2) Except as otherwise provided under subsection (7), a
2 provider of toll access services shall set the rates for toll
3 access services. Access service rates and charges set by a provider
4 that exceed the rates allowed for the same interstate services by
5 the federal government are not just and reasonable. In no event may
6 end-user or subscriber line charges exceed the rates allowed for
7 the same interstate services by the federal government. ~~as of May~~
8 ~~1, 2000.~~ Providers may agree to a rate that is less than the rate
9 allowed by the federal government. If the providers cannot agree on
10 a rate, a provider may apply to the commission under section 204.

11 (3) Two or more providers that each have less than 250,000
12 access lines may agree to joint toll access service rates and
13 pooling of intrastate toll access service revenues.

14 (4) A provider of toll access services shall make available
15 for intrastate access services any technical interconnection
16 arrangements, including colocation required by the federal
17 government for the identical interstate access services.

18 (5) A provider of toll access service, whether under tariff or
19 contract, shall offer the services under the same rates, terms and
20 conditions, without unreasonable discrimination, to all providers.
21 All pricing of special toll access services and switched access
22 services, including volume discounts, shall be offered to all
23 providers under the same rates, terms, and conditions. Until
24 allowed by the federal communications commission, volume discounts
25 on switched access are prohibited under this subsection.

26 (6) If a toll access service rate is reduced, then the
27 provider receiving the reduced rate shall reduce its rate to its

Senate Bill No. 754 as amended October 11, 2005

1 customers by an equal amount. The commission shall investigate and
2 ensure that the provider has complied with this subsection.

~~<<(7) AFTER JULY 1, 2006, A PROVIDER OF BASIC LOCAL EXCHANGE
SERVICE SHALL NOT ASSESS OR IMPOSE ON END-USERS AN INTRASTATE SUBSCRIBER
LINE CHARGE OR END-USER LINE CHARGE.~~

~~(8) IF A PROVIDER IS ASSESSING OR IMPOSING AN INTRASTATE SUBSCRIBER
LINE CHARGE OR END-USER LINE CHARGE ON JULY 1, 2005, THE PROVIDER MAY NO
LATER THAN JULY 2, 2006 FILE WITH THE COMMISSION UNDER SECTION 304(2)(F)
NOTICE OF AN INCREASE IN THE ESSENTIAL BASIC LOCAL EXCHANGE RATE IN AN
AMOUNT NOT TO EXCEED THE PROVIDER'S INTRASTATE SUBSCRIBER LINE CHARGE OR
END-USER LINE CHARGE IN EFFECT ON JULY 1, 2005.>>~~

3 ~~—(7) A provider of basic local exchange service shall not~~
4 ~~assess or impose on end-users an intrastate subscriber line charge~~
5 ~~or end-user line charge.~~

6 (7) ~~—(8)~~ This section shall not apply to basic local exchange
7 providers that have 250,000 or fewer customers in this state.

8 Sec. 315. (1) The commission shall require each provider of
9 basic local exchange service to provide a text telephone-
10 telecommunications device for the deaf at costs to each individual
11 who is certified as deaf or ~~severely hearing~~ **HARD OF HEARING** or
12 speech-impaired by a licensed physician, **LICENSED** audiologist, or
13 qualified state agency, and to each public safety answering point
14 as defined in section 102 of the emergency telephone service
15 enabling act, ~~Act No. 32 of the Public Acts of 1986, being section~~
16 ~~484.1102 of the Michigan Compiled Laws~~ **1986 PA 32, MCL 484.1102.**

17 (2) The commission shall require each provider of basic local
18 exchange service to provide a telecommunication relay service
19 whereby persons using a text telephone-telecommunications device
20 for the deaf can communicate with persons using a voice telephone
21 through the use of third party intervention or automated
22 translation. Each provider of basic local exchange service shall
23 determine whether to provide a telecommunication relay service on
24 its own, jointly with other basic local exchange providers, or by
25 contract with other telecommunication providers. The commission
26 shall determine the technical standards and essential features of
27 text telephone and telecommunication relay service to ensure their

1 compatibility and reliability.

2 ~~—— (3) The commission shall appoint a 3 person advisory board~~
3 ~~consisting of a representative of the deaf community, the~~
4 ~~commission staff, and providers of basic local exchange service to~~
5 ~~assist in administering this section. The advisory board shall hold~~
6 ~~meetings, open to the public, at least once each 3 months, shall~~
7 ~~periodically seek input on the administration of this section from~~
8 ~~members of the deaf, hearing, or speech impaired community, and~~
9 ~~shall report to the commission at least annually. The advisory~~
10 ~~board shall investigate and make recommendations on the feasibility~~
11 ~~of hiring a reasonably prudent number of people from the deaf or~~
12 ~~hearing impaired and speech impaired community to work in the~~
13 ~~provision of telecommunication relay service.~~

14 (3) THE MICHIGAN TELECOMMUNICATION RELAY SERVICE ADVISORY
15 BOARD IS CREATED WITHIN THE DEPARTMENT. THE BOARD SHALL CONSIST OF
16 9 MEMBERS. ONE MEMBER SHALL BE THE CHAIR OF THE COMMISSION OR HIS
17 OR HER DESIGNATED REPRESENTATIVE. ONE MEMBER SHALL THE DIRECTOR OF
18 THE DIVISION ON DEAF AND HARD OF HEARING WITHIN THE DEPARTMENT OR
19 HIS OR HER DESIGNATED REPRESENTATIVE. ONE MEMBER SHALL BE A DEAF
20 CONSUMER APPOINTED BY THE DIRECTOR OF THE DEPARTMENT UPON THE
21 RECOMMENDATION OF THE MICHIGAN DEAF ASSOCIATION. ONE MEMBER SHALL
22 BE A HARD OF HEARING CONSUMER APPOINTED BY THE DEPARTMENT UPON THE
23 RECOMMENDATION OF MICHIGAN SELF-HELP FOR HARD OF HEARING. ONE
24 MEMBER SHALL BE A SPEECH IMPAIRED CONSUMER APPOINTED BY THE
25 DIRECTOR OF THE DEPARTMENT. FOUR MEMBERS SHALL BE APPOINTED BY THE
26 DIRECTOR OF THE DEPARTMENT TO REPRESENT TELECOMMUNICATION
27 PROVIDERS. APPOINTED MEMBERS SHALL BE APPOINTED FOR TERMS OF 4

1 YEARS. A VACANCY ON THE BOARD SHALL BE FILLED IN THE SAME MANNER AS
2 THE ORIGINAL APPOINTMENT FOR THE REMAINDER OF THE UNEXPIRED TERM.

3 (4) THE BOARD SHALL DESIGNATE FROM AMONG ITS APPOINTED MEMBERS
4 A CHAIRPERSON AND VICE-CHAIRPERSON, WHO SHALL SERVE FOR 2-YEAR
5 TERMS AND WHO MAY BE REELECTED. THE BOARD SHALL MEET NOT LESS THAN
6 4 TIMES EACH YEAR. SPECIAL MEETINGS MAY BE CALLED BY THE
7 CHAIRPERSON, OR UPON WRITTEN REQUEST OF NOT LESS THAN 4 BOARD
8 MEMBERS. MEETINGS SHALL BE HELD AT A LOCATION DESIGNATED BY THE
9 CHAIRPERSON.

10 (5) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION, BUT
11 SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES.

12 (6) STAFF SERVICES SHALL BE PERFORMED BY PERSONNEL OF THE
13 DEPARTMENT. ASSISTANCE SHALL ALSO BE MADE AVAILABLE, AS REQUESTED
14 BY THE BOARD, FROM OTHER AGENCIES, DEPARTMENTS, AND AUTHORITIES OF
15 THE STATE. THE BOARD MAY EMPLOY A STAFF TO ASSIST IT IN THE
16 PERFORMANCE OF ITS DUTIES, SUBJECT TO CIVIL SERVICE RULES AND
17 WITHIN FISCAL RESTRAINTS.

18 (7) A MAJORITY OF THE MEMBERS APPOINTED TO AND SERVING ON THE
19 BOARD CONSTITUTE A QUORUM. A MAJORITY VOTE OF THE MEMBERS VOTING
20 SHALL BE REQUIRED TO PASS UPON ANY QUESTION, ACTION, OR BUSINESS OF
21 THE BOARD.

22 (8) THE BUSINESS PERFORMED BY THE BOARD SHALL BE CONDUCTED AT
23 A PUBLIC MEETING OF THE BOARD. THE BOARD SHALL KEEP MINUTES OF ITS
24 PROCEEDINGS, SHOWING THE VOTE OF EACH MEMBER ON EACH PROPOSITION OR
25 QUESTION, OR INDICATING IF A MEMBER IS ABSENT OR FAILS TO VOTE. A
26 RECORD OF BOARD ACTION AND BUSINESS SHALL BE MADE AND MAINTAINED.

27 (9) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR

1 **RETAINED BY THE BOARD IN THE PERFORMANCE OF AN OFFICIAL FUNCTION**
2 **SHALL BE MADE AVAILABLE TO THE PUBLIC.**

3 (10) ~~—(4)—~~ Rates and charges for calls placed through a
4 telecommunication relay service shall not exceed the rates and
5 charges for calls placed directly from the same originating
6 location to the same terminating location. Unless ordered by the
7 commission, a provider of a telecommunications relay service shall
8 not be required to handle calls from public telephones except for
9 calls charged collect, cash, to a credit card, or third party
10 number.

11 (11) ~~—(5)—~~ Notwithstanding any other provision of this act, a
12 provider may offer discounts on toll calls where a text telephone-
13 telecommunications device for the deaf is used. The commission
14 shall not prohibit such discounts on toll calls placed through a
15 telecommunication relay service.

16 (12) ~~—(6)—~~ The commission shall establish a rate for each
17 subscriber line of a provider to allow the provider to recover
18 costs incurred under this section and may waive the costs assessed
19 under this section to individuals who are deaf or severely hearing
20 impaired or speech impaired. **THE COMMISSION SHALL ENSURE PROVIDERS**
21 **PROPERLY REMIT FUNDS TO SUPPORT THE RELAY SERVICE.**

22 (13) **NO LATER THAN JANUARY 1, 2008, THE BOARD SHALL CONDUCT A**
23 **STUDY AND REPORT TO THE GOVERNOR AND THE HOUSE AND SENATE STANDING**
24 **COMMITTEES WITH OVERSIGHT OF TELECOMMUNICATION ISSUES ON THE**
25 **ABILITY FOR DEAF, HARD OF HEARING, AND SPEECH IMPAIRED CUSTOMERS TO**
26 **ACCESS TELECOMMUNICATION SERVICES. THE REPORT SHALL INCLUDE, BUT IS**
27 **NOT LIMITED TO, ACTIVITIES BY THE COMMISSION TO ENSURE REASONABLE**

1 ACCESS, IMPEDIMENTS TO ACCESS, IDENTIFICATION OF ACTIVITIES IN
2 OTHER STATES TO IMPROVE ACCESS, AND RECOMMENDATIONS FOR
3 LEGISLATION, IF ANY.

4 (14) AS USED IN THIS SECTION:

5 (A) "BOARD" MEANS THE MICHIGAN TELECOMMUNICATION RELAY SERVICE
6 ADVISORY BOARD CREATED UNDER SUBSECTION (3).

7 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND ECONOMIC
8 GROWTH.

9 Sec. 316a. (1) As used in this section:

10 (a) "Affordable rates" means, at a minimum, rates in effect on
11 January 1, 2001 or as determined by the commission.

12 (b) "Intrastate universal service fund" means a fund created
13 by the commission to provide a subsidy to customers for the
14 provision of supported telecommunication services provided by any
15 telecommunication carrier.

16 (c) "Supported telecommunication services" means primary
17 residential access lines and a minimum level of local usage on
18 those lines, as determined by the commission.

19 (d) "Universal service" shall mean the provision of supported
20 telecommunication services by any carrier.

21 ~~— (2) No sooner than July 1, 2002, the commission shall initiate~~
22 ~~an investigation to determine whether an intrastate universal~~
23 ~~service fund should be created. The commission shall complete the~~
24 ~~investigation no sooner than December 1, 2002. All providers shall~~
25 ~~be made respondents in the proceeding and any other interested~~
26 ~~party may participate and intervene in the proceeding.~~

27 (2) ~~—(3)~~ The commission shall determine for each provider

1 whether and to what extent the affordable rate level to provide
2 supported telecommunication services is below each provider's
3 forward looking economic cost of the supported telecommunication
4 services.

5 (3) ~~—(4)—~~ If ~~—a—~~ **AN INTRASTATE UNIVERSAL** fund is created under
6 this section, to the extent providers provide supported
7 telecommunication services at an affordable rate that is below the
8 forward looking economic cost of the supported telecommunication
9 services, the fund shall provide a subsidy for customers in an
10 amount which is equal to the difference between the affordable rate
11 as determined by the commission and the forward looking economic
12 cost of the supported services, less any federal universal service
13 support received for those supported services.

14 (4) ~~—(5)—~~ Eligibility for customers to receive intrastate
15 universal service support under subsection ~~—(4)—~~ (3) shall be
16 consistent with the eligibility guidelines of section 254(e) of the
17 telecommunications act of 1996 and the rules and regulations of the
18 federal communications commission. The state fund shall be
19 administered by an independent third-party administrator selected
20 by the commission.

21 (5) ~~—(6)—~~ To the extent an intrastate universal service fund
22 is established, the commission shall require that the costs of the
23 fund be recovered from all telecommunication providers on a
24 competitively neutral basis. Providers contributing to the
25 intrastate universal service fund may recover from end-users the
26 costs of the financial support through surcharges assessed on end-
27 users' bills.

1 (6) ~~—(7)—~~ Upon request or on its own motion, the commission,
2 after notice and hearing, shall determine if, based upon changes in
3 technology or other factors, the findings made under this section
4 should be reviewed.

5 ~~———(8) This section does not apply if an interstate universal~~
6 ~~service fund exists on the federal level unless otherwise approved~~
7 ~~by the commission.~~

8 Sec. 317. ~~—(1) The commission shall adopt operating~~
9 ~~requirements for operator service providers. The requirements shall~~
10 ~~include the following:~~

11 ~~———(a) That an OSP shall furnish each entity with which the OSP~~
12 ~~contracts to provide operator service a sticker, card, or other~~
13 ~~form of information for each telephone that has access to the~~
14 ~~operator service. The information shall include the name of the~~
15 ~~operator service provider, a toll-free customer service telephone~~
16 ~~number, and a statement that charges imposed by the operator~~
17 ~~service provider may be obtained by calling the toll-free telephone~~
18 ~~number. The operator service provider shall require by contract~~
19 ~~that the entity receiving the information display the information~~
20 ~~on or near each of the telephones that has access to the service.~~

21 ~~———(b) Prior to the connection of each call, the operator service~~
22 ~~provider shall do all of the following:~~

23 ~~———(i) Announce the operator service provider's name.~~

24 ~~———(ii) Quote, at the caller's request and without charge, the~~
25 ~~rate and any other fees or surcharges applicable to the call~~
26 ~~charged by the operator service provider.~~

27 ~~———(c) Allow a caller to choose the carrier of his or her choice~~

1 ~~by doing either of the following:~~

2 ~~—— (i) After informing the caller that the rates for the call may~~
3 ~~not reflect the rates for a call from the location of the caller~~
4 ~~and receiving the caller's consent, transfer the caller to the~~
5 ~~carrier of his or her choice without charge.~~

6 ~~—— (ii) Instruct the caller how to reach his or her carrier of~~
7 ~~choice by dialing the carrier's 950, 1-800, or 10-XXX access~~
8 ~~service method.~~

9 ~~—— (d) Allow callers to the operator service provider to reach~~
10 ~~emergency services without charge.~~

11 (1) ~~—(2)—~~ An operator service provider shall not provide
12 operator services in this state without first registering with the
13 commission. The registration shall include the following
14 information:

15 (a) The name of the provider.

16 (b) The address of the provider's principal office.

17 (c) If the provider is not located in this state, the address
18 of the registered office and the name of the registered agent
19 authorized to receive service of process in this state.

20 (d) Any other information that the commission may require.

21 (2) ~~—(3)—~~ The registration shall be accompanied with a
22 registration fee of \$100.00.

23 (3) ~~—(4)—~~ The registration is effective immediately upon
24 filing with the commission and the payment of the registration fee
25 and shall remain in effect for 1 year from its effective date.

26 (4) ~~—(5)—~~ A registration may be renewed for 1 year by filing
27 with the commission a renewal registration on a form provided by

the commission and the payment of a renewal fee of \$100.00.

<<(5) THE COMMISSION SHALL REQUIRE AN OPERATOR SERVICE PROVIDER TO QUOTE, AT THE CALLER'S REQUEST AND WITHOUT CHARGE, THE RATE AND ANY OTHER FEES OR SURCHARGES APPLICABLE TO THE CALL CHARGED BY THE OPERATOR SERVICE PROVIDER.>>

~~(6) Except as otherwise authorized by the commission, a provider under this section shall not charge a rate for operator services or toll service that is greater than 300% of the state average rate for operator or toll service by providers of regulated toll service.~~

~~(7) A provider shall not discontinue basic local exchange service for failure by a person to pay an OSP charge.~~

~~(8) In addition to any other penalty under this act, a person who is charged for the use of an operator service provider or is denied access to emergency services in violation of this section may bring a civil action against the OSP to recover actual damages or \$250.00, whichever is greater, plus all reasonable attorney fees.~~

Sec. 321. ~~Except as otherwise provided under section 304a, a~~
A provider of a regulated telecommunication service shall not charge a rate for the service that is less than the total service long run incremental cost of providing the service.

<<SEC. 353A. (1) WHEN NEGOTIATING A SUCCESSOR INTERCONNECTION AGREEMENT, UNLESS THE PARTIES AGREE OTHERWISE, THE PARTIES SHALL USE THEIR CURRENT INTERCONNECTION AGREEMENT AS THE BASELINE DOCUMENT FOR NEGOTIATION. THE PARTY REQUESTING IN AN ARBITRATION PROCEEDING A CHANGE IN THE BASELINE DOCUMENT BEARS THE BURDEN OF PERSUASION THAT THE CHANGE IS NECESSARY.

(2) IF A PARTY NEGOTIATING AN INTERCONNECTION AGREEMENT WISHES TO TAKE A POSITION CONTRARY TO A PRIOR RULING OF THE COMMISSION IN AN ARBITRATION PROCEEDING, THE PARTY SHALL FILE A MOTION WITH THE COMMISSION DEMONSTRATING THAT GOOD CAUSE EXISTS TO RELITIGATE THE ISSUE. SUCH MOTION SHALL BE FILED NOT LATER THAN 90 DAYS FROM THE COMMENCEMENT OF NEGOTIATIONS. THE COMMISSION SHALL RULE UPON THE MOTION WITHIN 21 DAYS OF ITS FILING AND DETERMINE THE EXTENT TO WHICH THE ISSUE MAY BE RELITIGATED. A PARTY THAT BELIEVES THAT THE OTHER PARTY IS TAKING A POSITION CONTRARY TO A PRIOR RULING OF THE COMMISSION MAY ALSO FILE A MOTION FOR A DETERMINATION UNDER THIS SECTION.>>

Sec. 355. (1) ~~On or before January 1, 1996, a~~ A provider of basic local exchange service shall unbundle and separately price

21 each basic local exchange service offered by the provider into the
22 loop and port components and allow other providers to purchase such
23 services on a nondiscriminatory basis.

24 (2) Unbundled services and points of interconnection shall
25 include at a minimum the loop and the switch port.

26 Sec. 359. (1) ~~No later than January 1, 1996, a~~ A provider of
27 basic local exchange service shall establish a rate charge for

1 other providers of basic local exchange service for the termination
2 of local traffic on its network as provided under section 352.

3 (2) This section does not prohibit providers of basic local
4 exchange service from entering into an agreement to provide for the
5 exchange of local traffic on other terms and conditions. Any
6 compensation arrangements agreed to between providers under this
7 subsection shall be available to other providers with the same
8 terms and conditions on a nondiscriminatory basis.

9 Sec. 360. (1) ~~No later than January 1, 1996, a~~ A provider of
10 basic local exchange service shall establish a rate to other
11 providers of basic local exchange service for providing directory
12 assistance.

13 (2) This section does not prohibit providers of basic local
14 exchange service from entering into an agreement to provide for the
15 exchange of providing directory assistance on other terms and
16 conditions.

<<Sec. 402A. (1) A provider of an unregulated service ~~may~~ **SHALL**
file with the commission a tariff which shall contain **A COMMITMENT TO
PROVIDE EMERGENCY SERVICES TO ITS CUSTOMERS, INCLUDING 9-1-1 AND E-9-1-1
SERVICES. IF 911 SERVICE IS NOT AVAILABLE IN AN AREA, THE PROVIDER SHALL
MAKE ARRANGEMENTS FOR THE CUSTOMER TO REACH POLICE, FIRE, AND EMERGENCY
MEDICAL SERVICES THROUGH ANOTHER MECHANISM. THE TARIFF MAY CONTAIN OTHER**
~~the information the provider determines to be appropriate regarding the
offered service~~ **ITS RATES AND SERVICE OFFERINGS.**

Sec. 502. (1) A provider of a telecommunication service shall not
do any of the following:

(a) Make a statement or representation, including the omission of
material information, regarding the rates, terms, or conditions of
providing a telecommunication service that is false, misleading, or
deceptive.

(b) Charge an end-user for a subscribed service that the end-user
did not make an initial affirmative order. Failure to refuse an offered
or proposed subscribed service is not an affirmative order for the
service.

(c) If an end-user has canceled a service **IN COMPLIANCE WITH A
TARIFF OR CONTRACT**, charge the end-user for service provided after the
effective date the service was canceled.

(d) If a residential end-user has orally ordered a service, fail to
confirm the order in writing within 15 days after the service is ordered.

(e) State to an end-user that their basic local exchange service or
other regulated service will be discontinued unless the end-user pays a
charge that is due for an unregulated service.

(f) Disparage the services, business, or reputation of another by
false, **DECEPTIVE**, or misleading representation of fact.

(g) Represent to a party to whom services are supplied that the services are being supplied in response to a request made by or on behalf of the party when they are not.

(h) Cause a probability of confusion or a misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction **BY MAKING A FALSE, DECEPTIVE, OR MISLEADING STATEMENT.**

(i) Represent or imply that the subject of a transaction will be provided promptly, or at a specified time, or within a reasonable time, if the provider knows or has reason to know it will not be so provided.

(j) Cause coercion and duress as a result of the time and nature of a sales presentation.

(2) When the commission has authority to bring a proceeding for violation of this section, the commission may accept an assurance of discontinuance of a method, act, or practice which is alleged to be unlawful under this section from the person who is alleged to have engaged, be engaging, or be about to engage in the method, act, or practice. The assurance shall not be an admission of guilt or be introduced in any other proceeding. Unless rescinded by the parties or voided by the court for good cause, the assurance may be enforced in the circuit court by the parties to the assurance. The assurance may include a stipulation for any of the following:

(a) The voluntary payment by the person for the cost of investigation.

(b) An amount to be held in escrow pending the outcome of an action.

(c) An amount for restitution to an aggrieved person.

SEC. 502A. (1) A PROVIDER OF AN UNREGULATED TELECOMMUNICATION SERVICE SHALL NOT DO ANY OF THE FOLLOWING:

(A) CHARGE AN END-USER FOR A SERVICE THAT THE END-USER DID NOT REQUEST BY AN AFFIRMATIVE ORDER. FAILURE TO REFUSE AN OFFERED OR PROPOSED SERVICE IS NOT AN AFFIRMATIVE ORDER FOR THE SERVICE.

(B) IF AN END-USER HAS CANCELLED A SERVICE, CHARGE THE END-USER FOR SERVICES PROVIDED AFTER THE EFFECTIVE DATE THE SERVICE WAS CANCELLED.

Sec. 505. (1) An end user of a telecommunications provider, **INCLUDING AN UNREGULATED PROVIDER**, shall not be switched to another provider without the authorization of the end user.

(2) The commission shall issue orders to ensure that an end user of a telecommunications provider is not switched to another provider without the end user's oral authorization, written confirmation, confirmation through an independent third party, or other verification procedures subject to commission approval, confirming the end user's intent to make a switch and that the end user has approved the specific details of the switch. The order issued under this section shall require that all as providers comply with the regulations established by the federal communications commission on verification procedures for the switching of an end user's telecommunications provider.

(3) As used in this section and section 506:

(a) "End user" means the retail subscriber of a telecommunications service.

(b) "Telecommunications provider" or "provider" means a person that provides 1 or more telecommunications services for compensation.

~~Telecommunication provider does not include a provider of commercial mobile service as defined in section 332(d)(1) or Part I of title III of~~

~~the communications act of 1934, chapter 652, 96 Stat. 1096, 47 U.S.C. 332.>>~~

17 Sec. 604. This act is repealed effective December 31, ~~2005~~
18 2009.

19 Enacting section 1. Sections 207, 304b, 312a, 319, 322, 351,
20 353, 358, and 701 of the Michigan telecommunications act, 1991 PA
21 179, MCL 484.2207, 484.2304b, 484.2312a, 484.2319, 484.2322,
22 484.2351, 484.2353, 484.2358, and 484.2701, are repealed.